

## MINUTES

### MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

**Call to Order:** By **SEN. KELLY GEBHARDT**, on March 7, 2003 at 8:30 A.M., in Room 335 Capitol.

**Members Present:**

Sen. Kelly Gebhardt, SD 4, Roundup (R)  
Sen. Mike Wheat, SD 14, Bozeman (D)  
Rep. Sylvia Bookout-Reinike, HD 71, Alberton (R)  
Jim Greene, Administrator, Disaster and Emergency Services  
Division (DES), Department of Military Affairs (DMA)

**Staff Present:** Pat Murdo, Legislative Branch  
Mona Spaulding, Committee Secretary

**Please Note.** This is a transcript, not summary minutes. Due to the informal nature of the work committee, there are instances where people talked at the same time making the tape incomprehensible. Also because of the informal nature of the meeting, people often used incomplete sentences and did not complete thoughts. In these instances ellipses . . . are used. Where meaning is not affected extraneous words are omitted. Where the secretary has inferred meaning brackets [ ] are used. *Italics* denote emphasis.

**Committee Business Summary:** Work Committee HB 218

#### HB 218 Subcommittee Meeting Transcript

**EXHIBIT**(sts48a01) Gray Bill

**EXHIBIT**(sts48a02) Amendments HB021801.apm March 7, 2003 (8:17 am)

**EXHIBIT**(sts48a03) 49 U.S.C.Sec.5119-Uniform forms and procedures  
55 Gallon Type A Steel Drum  
TN-BRP Type B Storage/Transport Spent Fuel Package

**SEN. KELLY GEBHARDT** [Referring to the gray bill], on page 3(f), "to provide for a monitored pullout area for use by truck transporters hauling highly radioactive waste." I understand the idea, for safety and so forth, but how do we arrive at that if we have one truckload. Unless someone comes and says we want to haul 1,000 loads of radioactive waste through your state, then we make those kinds of arrangements--for pullouts. We have to deal with the issue now, with what we have for infrastructure.

**REP. SYLVIA BOOKOUT-REINICKE** Who are we asking to provide the pullouts?

**PAT MURDO** This is from . . . talked to Western Governors Association.

**REP. SYLVIA BOOKOUT-REINICKE** [To **SEN. MIKE WHEAT**] Kelly decided we really need a record [of this meeting].

**SEN. KELLY GEBHARDT** If something happens latter in this process, at least we can say we deliberated on this and tried to do a good job.

**PAT MURDO** Washington Governors' Association has put together different rules that they've worked out with the Department of Energy . . . for shipping the waste isolation pilot plant in New Mexico. One of the provisos they had was to have a monitored pullout area. That is in their recommendations for transport. What this does . . . New Section 4, is what the money can be spent on. *If* the state decided that the money should be spent on a pull-out area, [and realize that] it doesn't have to be done, then the money would be able to be used for that.

**REP. SYLVIA BOOKOUT-REINICKE** Can we put "may be to provide?"

**SEN. KELLY GEBHARDT** That's what is says now. I didn't read it carefully enough.

**PAT MURDO** You don't need to [say that] because of . . . but, then elsewhere in the provisions it says that . . . under number

3, Disaster and Emergency Services is supposed to work with everybody to prioritize the disbursement. [It could be] put as the last priority.

**REP. SYLVIA BOOKOUT-REINICKE** The main purpose of this bill is to give local responders some equipment and training.

**PAT MURDO** Equipment was left out of the original [bill]. It is now in there.

**REP. SYLVIA BOOKOUT-REINICKE** [Expressed surprise that equipment wasn't in the original bill.]

**PAT MURDO** "Obtain protective clothing and gear" needed to be added. To provide funding for training was in the original bill, but not equipment.

**SEN. MIKE WHEAT** That's why we have more eyes; so we can catch these things.

**PAT MURDO** Some of these are based on **SEN. MIKE WHEAT'S** recommendations, and some are based on what the Western Governors were recommending. The title, and I may have missed things that need to go into the title, but skip that. Go into the new **Purpose** . . . is to be sure the state is protected. Page 2, to "enhance the safety," but to ensure that there are provisions in case of an accident.

New Section 3, including equipment purposes. As the fiscal note shows, the account won't have much money in it. Utah had a fiscal note and they only expect \$15,000 in there. They are actually on a direct route from Havre. This new bill charges \$1,500. Just be aware that money wouldn't be all that . . .

Page 3 expands what the account could be used for. The notification costs are one of the questions. It's that if the federal Laws require regulations that don't allow notifying residents. You're supposed to keep the information secret.

**SEN. MIKE WHEAT** Which is kind of bizarre if you happen to live along the route.

**REP. SYLVIA BOOKOUT-REINICKE** I know, but when you see these big things with nuclear signs on them, you'll know.

**JIM GREENE** What they want to do is for security reasons. So that people don't attack or put up road blocks, or those kind of things.

**SEN. MIKE WHEAT** I understand the purpose underlying non-notification, but if you happen to be a person *living* along that route, you may not be too happy with the fact that people are shipping radioactive waste right by your doorstep, and you never were notified until its been long past. Or, there's an accident.

**JIM GREENE** That's the federal law, and . . .

**SEN. MIKE WHEAT** I understand that.

**PAT MURDO** What I did on this one though . . . I did change this from the original amendment. I put, "in case of emergency." [page 3, Section 2(d)]. The original amendment I had put down was to assist with notification, but it would seem to me that all that's sort of off it. If there is an emergency, there may be necessity to use some of that money to pay . . . and in fact the Governor could tap all sorts of government money. I thought that might allow it to get by the federal rules. [It] just seems kind of logical.

**SEN. MIKE WHEAT** I think that is logical, and I don't have a problem with that.

**PAT MURDO** And then, it's the gear. The monitored pull-out area is what I explained. That if in fact . . . if it became something that everybody else has one, and Montana didn't, and the truckers wanted to go through Montana, then perhaps one of the weigh stations could be modified. Because there is something of a . . . elsewhere there is a requirement for working together amongst these . . . DES, DMA . . . that was in the original bill, and because there were extra requirements for how to spend the money . . . didn't you want something about notifying the legislature . . . anyhow, that's what number 3 is. Kind of run it by the legislature--how to spend the money--to see if you're going in the right direction.

Under Number 5, **SEN. MIKE WHEAT** wanted responsibility. The first one is, in fact, required by the federal government.

**REP. SYLVIA BOOKOUT-REINICKE** We need to go back. So you're appropriating the Interim Legislative Committee prior to the next session?

**PAT MURDO** No, it would be presented to an appropriate, relevant Interim Committee. It would probably be State Administration and Veterans' Affairs. They just have to run it by.

**SEN. KELLY GEBHARDT** I think, actually, that's a good idea. The reason I do is we've got a lot of open doors here. To say we don't know what kind of a . . . what a Class 6 inspection is. A lot of things maybe we would like to have answered. Like you had . . . I said two casks are Ok on it, five cars . . . and you [**PAT MURDO**] kind of rolled your eyes.

**REP. SYLVIA BOOKOUT-REINICKE** I don't think they'll put two [casks] on one train car. I think they'll have one on each car.

**SEN. KELLY GEBHARDT** My guess is they'll put two [casks] because they'll make the cask the size that will fit a truck. Two of those will fit on a train car. [And, it would be] Ok weight-wise, room-wise, and so forth.

**JIM GREENE** Things can change over time.

**SEN. MIKE WHEAT** All we want to do is . . . we just want some oversight.

**JIM GREENE** I think that's very appropriate. Actually, I like that because it helps keep you guys involved; or whoever is here involved.

**SEN. KELLY GEBHARDT** It also allows that the rulemaking process doesn't get the fees too high.

**REP. SYLVIA BOOKOUT-REINICKE** The Department of Energy (DOE) won't let that happen . . . Illinois [these are the highest] fees in the nation now, along with the State of Illinois. The DOE challenged Illinois. They went to court and won. Somebody mentioned in the hearing about [fees] going higher, and I said "No, no, [we] can't do that. Then we'll be challenged."

**SEN. KELLY GEBHARDT** I think it would be appropriate for those to be reviewed . . . that keeps us back in the loop. We're the final authority. We probably don't want to get down to dealing with the signage on the vehicles and that kind of thing.

**PAT MURDO** You can't anyway. The federal government regulates that one.

**SEN. KELLY GEBHARDT** I realize that, but they put a minimum regulation on it. We could put more on. We do have that authority . . . make them put bigger signs, more signs . . . [I] don't know that we want to deal with that. The Department of Transportation (DOT) will deal with those things.

**SEN. MIKE WHEAT** It looks like there's an awful lot of specificity in the federal rules.

**JIM GREENE** There is. They could call us and in three day we'd have shipments going through the state, right now.

**PAT MURDO** Which brings us to the very last item. Because they could be shipping things through, I put an immediate effective date on it.

Back to the safety report: [Does] anyone has any other ideas for new Section 5. the shipment description is required by the federal government. Safety report would include, and because it says include it could have more, at least the specifications of the casks and how they've been tested, which is something less than you might want to know. [Also] proof of training by crew members. As **JIM GREENE** was saying, there are all sorts of training. You might want to require something that is not just training for handling and inspecting, but maybe for dealing with accidents. (c) the safety plan: [It] is also required by the federal government . . . safety precautions to be taken, emergency plans for threats to safety.

**SEN. MIKE WHEAT** We want to know that whoever is transporting this stuff has thought it through.

**PAT MURDO** Proof of insurance or an indemnity bond. This is one of the areas that if the federal government did have something in effect, which they had until 2002 . . . In October 2002 the Price-Anderson Act expired, so there is no federal insurance covering transport of nuclear waste right now.

**SEN. KELLY GEBHARDT** Is this rate commensurate with what they had? What did that act allow.

**PAT MURDO** . . . it's paid for by the nuclear industry, and it also covers nuclear power plants . . . so we now [also] have no federal insurance for nuclear power plants . . .and it's \$8.6 billion. This is just a small amount, the same amount that New Hampshire has. If everybody . . .in fact, there is some reason . . . for \$25 million.

**SEN. MIKE WHEAT** I put that in there just going through writing things. It happened to coincide.

**PAT MURDO** I wasn't sure who you would like to be responsible for overseeing the insurance.

**SEN. KELLY GEBHARDT** We need to decide that.

**SEN. MIKE WHEAT** I think it needs to be one of the agencies.

**JIM GREENE** Yes, we don't want to bring in another agency. It should be the Public Safety Commission (PSC). The Department of Transportation (DOT) is doing the permits, maybe the insurance should be part of the permit . . . so DOT . . . [Everyone concurred.]

**PAT MURDO** Then the proof of radiotelephone. Federal law says citizen band radio. **DAN HAWKINS** from the Department of Administration (DOA)said that wouldn't work. They aren't always capable of talking through the mountains.

**JIM GREENE** I don't see that being a problem, because they're going to have high tech.

**PAT MURDO** And they have to have it. There's a whole trans-com that they communicate with. But it's their responsibility to provide that. So they would have to provide copies to their escorts.

**SEN. KELLY GEBHARDT** What happens if . . . do you know anything about the licensing of those frequencies, **JIM [GREENE]**? If XYZ Company hauls from Washington to Nevada, and they're going to go through . . .

**JIM GREENE** That's part of their plan, and I think they have separate . . . assigned frequencies, and probably . . . I'm sure they're using scrambled radios, so that only the ones listening. . . and then, the thing is as part of our plan is that we've got to make sure that they've got local government's emergency frequencies, and that they have compatibility. Actually, everything's going to the national standards . . . that there is compatibility in radio equipment so they can dial in the local radio things along the way, and talk to the local sheriff.

**SEN. KELLY GEBHARDT** Ok. That kind of goes where I was going. The reason I asked that question is I think as long as there is cooperation it probably doesn't matter. Our company radios are good for a region, an area. I don't know how big it is, but it's kind of our working area. If somebody comes from New Hampshire to haul waste from Washington to Nevada, they may be licensed in their home region or area, but maybe haven't been licensed for the west. Is that going to be an issue?

**JIM GREENE** That won't be an issue for their internal stuff and then . . . federal law and state rules [say] that in an emergency, anybody can use anybody's frequency. And we have published a radio plan for the mutual aid frequencies. Part of their individual plan is for each segment [they travel through] to know what those frequencies are for that county.

**SEN. KELLY GEBHARDT** That's fine. Thank you.

**PAT MURDO** That would be under the emergency plan then?

**JIM GREENE** Yes.

**PAT MURDO** Do we need to specify that?

**JIM GREENE** I don't really . . .

**SEN. KELLY GEBHARDT** I think it's already like **JIM [GREENE]** says, it's already set out.

**SEN. MIKE WHEAT** That's going to be part of the rulemaking. You're going to be developing rules on that? What kind of plans . . .



**JIM GREENE** Yes, and the specificity . . . I think what we'd do is get into the plan. We'll look at the existing federal plans that they're using right now, and they're very detailed. I mean they go . . . some of them go day by day: where they're going to be, who they're going to be talking to; all that. Then they've got, in case the road gets closed, they go [into] their backup routes to get around.

**PAT MURDO** Number 2, top of page 4, says "has to be properly sealed and the cask approved by the Nuclear Regulatory Commission (NRC)."

**SEN. MIKE WHEAT** That makes sense.

**PAT MURDO** The idea was to try to get one of the heavily tested ones [casks]. But I'm not sure we can go that far. If they've approved, they've approved.

**SEN. MIKE WHEAT** That's right.

**PAT MURDO** A change; this is one of the notification ideas in new Section 6(2). How I did this was to . . . I was thinking more of the Federal Flood Management Plan. When you buy a house you have to find out if it's in the flood plain. It would seem to me that, at the same time, if you were buying a house and you were on a transport route, you should be notified at that time. Just as a disclosure. And because county commissioners . . .

**SEN. MIKE WHEAT** That this is an intended route.

**PAT MURDO** Right. It would be an easier way of dealing with notification. [It] doesn't have to deal with it each specific time, [and] wouldn't put any burden on the county commissions that don't want to deal with it.

**REP. SYLVIA BOOKOUT-REINICKE** And you've got disclosure allowed by the NRC.

**PAT MURDO** Right. That was a new change to the amendments. That way at least if there were an accident, then the counties that had prepared for it would have the ability to respond. The counties that didn't could be blamed under this law.

**REP. SYLVIA BOOKOUT-REINICKE** Every county has a sheriff don't they?

**PAT MURDO** Well, they have to be notified.

**REP. SYLVIA BOOKOUT-REINICKE** They're automatically notified. Well, no. Only the highway patrol was aware that the stuff was coming through.

**SEN. MIKE WHEAT** What you may want as part of your plan in how to deal with an emergency, [is] a list of all the people with their phone numbers and addresses that are along the proposed route so you can just . . . this would help prepare that.

**SEN. KELLY GEBHARDT** That's going to actually come down to the county commissioners by directive. But it's going to be Disaster and Emergency Services (DES).

**SEN. MIKE WHEAT** It's going to be the state.

**SEN. KELLY GEBHARDT** [Its going to be] the DES coordinator in the county that's going to disseminate that information.

**JIM GREENE** I'm curious though, **SEN. GEBHARDT** . . . I'll just ask this question since you are a former commissioner: The sheriff, and then within the city limits, the police, are normally responsible for the over-all public safety?

**SEN. KELLY GEBHARDT** That's true. But most of the . . . I think if you were to go and actually look at the plans within the counties, most of them have the fire department being responsible for HazMat.

**JIM GREENE** Right now, when something happens, we notify the 911 dispatch, the 24-hour point of contact, in each of the counties.

**SEN. KELLY GEBHARDT** That makes sense.

**JIM GREENE** I'm wondering if we should say the county 24-hour emergency point contact?

**SEN. KELLY GEBHARDT** That would be the notification point. But it would still want to know . . . set the policy.

**JIM GREENE** Commissioners need to set the policy.

**SEN. KELLY GEBHARDT** The commissioners should determine that and not you. But that's where it ultimately should go. It needs to go to the commissioners with the recommendation that they specify the 24-hour point of contact.

**REP. SYLVIA BOOKOUT-REINICKE** So they could assign this to whoever . . .

**SEN. KELLY GEBHARDT** That's what's going to happen. I think through . . . **JIM [GREENE]** understands that process. That could be one of the things addressed in rulemaking. The county commissioners will set the policy that works in their community. We're going to have consolidated law enforcement counties, and counties that have the sheriff and the city police . . . it will vary from county to county. [We] need to leave [it] in the bill as the county commissioners. Through the rule-making we'll break it down a little more.

**PAT MURDO** Under federal rules on safeguards to information, it does limit who can learn . . . and so it includes an employee agent of the United States government, the Governor of the state, or a designated representative (that could be the county commissioners in that case), a member of a state or local law enforcement authority. They are allowed that information. Not many people are.

**SEN. MIKE WHEAT** The main reason, it seems to me, is for emergency purposes.

**PAT MURDO** That's part of your rulemaking. [Turning now to] new Section 7, crossing out 6, page 5: payment of the fees provided in Subsection 1 is [the] responsibility of [the] person or entity who owns . . . I put in "or who is shipping" the waste. The reason is . . . it isn't an or, it's supposed to be the federal government that pays, right?

**JIM GREENE** Well, it could be like the nuclear power plant, privately owned.

**PAT MURDO** Right. When I was reading through some of the federal regulations, it seemed to me that the federal government was

saying that the transporters pay these fees. But, it's part of the contract. If, in fact, it's part of the contract then whoever is shipping the waste pay the fee.

**PAT MURDO** [Turn to] page 4, Subsection 2.

**JIM GREENE** I guess, **PAT [MURDO]**, if it's in the contract where the shipper pays it on behalf of the federal government, or the nuclear power plant, that's one thing . . .

**REP. SYLVIA BOOKOUT-REINICKE** Can we put in "the shipper may pay on behalf of the owner" because, I tell you, the trucking industry is pretty strong; and they and the rail [companies] don't want to be stuck with this.

**JIM GREENE** And that's why they've bought into this.

**PAT MURDO** [Turn to] page 5. What I did is took out the "and." The other part of that is, the person who owns isn't always the person shipping. So . . . under the current way it reads they have to be both shipper and owner.

**JIM GREENE** No, the owner has to pay the bill.

**PAT MURDO** But the way it reads with the "and" is that "and" is shipping.

**JIM GREENE** Yes, they're contracting.

**REP. SYLVIA BOOKOUT-REINICKE** The owner is shipping the waste.

**PAT MURDO** But they may be contracting. We could say "who owns and is contracting or shipping the waste." What I was trying to get at is that the person may be handing that off to someone else; and then who would pay the fees is the question. This way they have to work it out between the two of them. If that doesn't work, we can change it.

**REP. SYLVIA BOOKOUT-REINICKE** "And" doesn't make it a separate person.

**PAT MURDO** Exactly. That's how I was reading it. You could get somebody who said, "I own the waste, but I'm not shipping it; therefore I don't have to pay it."

**REP. SYLVIA BOOKOUT-REINICKE** They're not the carrier, but they are the shipping. They have provided for the shipping.

**JIM GREENE** What we're saying is the owner has to pay it, and the shipper can't get a permit until the owner's paid it, because the trucking industry and the railroad don't want to be the ones responsible to pay anything. The owner has to, and that's what they've bought off on so far.

**PAT MURDO** I think there's a loop hole if you say "and."

**JIM GREENE** Oh! I see. Well, we'll just say the owner then.

**REP. SYLVIA BOOKOUT-REINICKE** "The payment of the fees is the responsibility of the person or entity who owns the waste." Let's leave the shipping part out.

**SEN. KELLY GEBHARDT** [Turn to] page 5 Subsection 2.

**SEN. MIKE WHEAT** The entity who owns; take out "or who is shipping."

**REP. SYLVIA BOOKOUT-REINICKE** Good, then the truckers and the railroad people . . . because they bought off on this with the guarantee that they're not going to have to pick up the tab out of their operating expenses.

**PAT MURDO** Number 3: **(TAPE 1 B)** It's "shall issue to the owner of the waste and to the transporter." When I was looking at it I was thinking, if they issue it to the owner, then it's not being carried with the waste. They'd have to have a copy. So you just have to have it to both people. And it's a one-trip permit, which is what most of the states . . .

**REP. SYLVIA BOOKOUT-REINICKE** Correct, we don't want it back.

**PAT MURDO** Nnumber 7: Fees under this Section, "regardless of ownership" it means that 61-10-127 says the federal government doesn't have to pay fees.

**CONSENSUS** Good. Yes. Cool.

**PAT MURDO** It seemed like that was a problem, if they're supposed to own it.

**REP. SYLVIA BOOKOUT-REINICKE** Wow! Who knew about that? I didn't know about that.

**SEN. KELLY GEBHARDT** Pat's worked in this field, so we couldn't have hit a luckier . . .

**PAT MURDO** . . . "permits issued to the U.S. government, states, counties, cities and their political subdivisions shall be issued without fee for a term beginning with the date of issuance." So just in case you want to make sure that one doesn't apply . . . There's another one, 61-3-321, so that in fact we charge the federal government.

**SEN. KELLY GEBHARDT** One thing that isn't addressed here, or maybe it is and I just missed it, but where does the money get deposited.

**REP. SYLVIA BOOKOUT-REINICKE** Into a new account. Section 4(b).

**SEN. MIKE WHEAT** . . . "special account in the state's special revenue to be known as the revenue account waste transportation . . . account," page 2.

**SEN. KELLY GEBHARDT** That needs to be one of those . . . [I] can't think of the name of the type of funds that should be, but it should be a fund that accumulates that money so it is protected, and the legislature doesn't use the money for the general fund.

**PAT MURDO** 321-5, says revisions of this part with respect to payment of registration fees do not apply to motor vehicles owned or controlled by the U.S. of America. (8) is the inspections. I didn't look specifically at the Illinois law, but some of the information that the previous drafter had talked about . . . how in Illinois they go out and inspect for radiation.

**REP. SYLVIA BOOKOUT-REINICKE** What a clever idea.

**PAT MURDO** I included that. Again, it . . . for the levels of radiation . . . and it has elsewhere that they're supposed to meet all of the regular trucking, rail transport . . . but low safety seems, because these casks are 150 tons or something, that [you] might want to weigh that in relationship to the strength of the highway, or something. This is from the Western Governors Association, and they do ask that the weather be considered.

**SEN. MIKE WHEAT** What if one of these trucks gets on south of Pipestem Pass?

**JIM GREENE** Flooding creates problems for the railroad.

**PAT MURDO** The question here is what period. When I talked to the [man] at the National Railroad Association, he [said] that it would be very difficult to inspect tracks in the 24-hour period, because [there is] 6000 miles of track. If [the train is] coming from North Dakota, that would be a problem for him. . . . ran it by the Public Service Commission; if, in fact, the cars are inspected elsewhere let that be sufficient. If they are inspected in North Dakota, let that inspection be sufficient because he said we may not be able to get people here. That should be included somewhere, too. If you want a different period . . . 12-hour period seems appropriate for Montana.

**SEN. MIKE WHEAT** For Montana, it's a 4-hour period. What do you think, **JIM [GREENE]**?

**JIM GREENE** I don't know about . . . just like the Alberton train derailment. They had an inspection over that, what, 24-hours ahead of that train derailment? I don't know enough about the logistics to reply.

**REP. SYLVIA BOOKOUT-REINICKE** What they did, they have this big [piece of] equipment that looks like a train itself; it drives over, and it's a sonar-type [apparatus]. They got a glitch, so they stopped, went back and looked, didn't see anything, and just said, "Oh well." But what happened was there was this huge split underneath the rail. I actually saw a memo in the federal report that MRL [unknown acronym] sent to the feds, and whenever they saw this glitch pop up on their screen, they were to take mirrors and go back and look along underneath the track. If they had done that, they would have spotted this big split.

**JIM GREENE** Where, exactly, is that 12-hour [reference]?

**SEN. KELLY GEBHARDT** The very bottom of page 5.

**SEN. MIKE WHEAT** I think a 24-hour period would be better.

**JIM GREENE** [Concurred]

**SEN. KELLY GEBHARDT** The thing that . . . maybe this is saying . . . need to inspect the road or the rail lines . . . and what we need to . . . maybe what we're looking at is the weather conditions: the conditions of the area, the route, rather than a physical inspection. That's like saying you going to drive the road 12 or 24 hours before you're traveling. [You're] probably not [going to do that]. You're probably not going to do this inspection like you were talking about, **REP. BOOKOUT-REINICKE**, of the rails every time they go to ship something. If they do that on a regular, routine basis. {What] we're looking at is conditions of flooding, weather, snow storms, or whatever it happens to be. That's what we're talking about, rather than going and inspecting the road itself. We need to make that clear here. It's going to be look[ing] at conditions that could affect travel, which could include weather, flood, forest fires, and those types of things.

**REP. SYLVIA BOOKOUT-REINICKE** Well, they're maintaining the rails through my area real well now.

**SEN. MIKE WHEAT** If you're going to go back under new Section 5, which is responsibilities of the transporter, they have to file a safety report. Maybe [that's] what we want to do, especially for the railroads. In that safety report, they talk about when they conducted their last investigation, or inspection of the rail line.

**REP. SYLVIA BOOKOUT-REINICKE** That's good. That's correct.

**SEN. MIKE WHEAT** So that we then get back to what **SEN. GEBHARDT** is talking about, that is under the inspections . . .

**REP. SYLVIA BOOKOUT-REINICKE** So that can be in the rulemaking process?



**SEN. MIKE WHEAT** Yes, it could be.

**REP. SYLVIA BOOKOUT-REINICKE** I wanted to leave . . . I really trust the PSC lawyers to . . .

**PAT MURDO** That's also partly under new Section 10, page 6. Based on what **SEN. GEBHARDT** said should I change it to, on page 5, Subsection 2, "compile the report on the condition of the travel route", and just cross out "including the highway or the rail lines?"

**SEN. KELLY GEBHARDT** Please repeat that.

**PAT MURDO** " . . . on the conditions that could affect the travel route."

**REP. SYLVIA BOOKOUT-REINICKE** Where are you adding that?

**PAT MURDO** Second line from the bottom, page 5.

**SEN. MIKE WHEAT** Take out "including the highway or the rail lines."

**SEN. KELLY GEBHARDT/SEN. MIKE WHEAT** That makes sense/I think that's right.

**SEN. MIKE WHEAT** We can take care of those inspections . . . safety . . .

**PAT MURDO** It is designed . . . I mean that Section was to get at the weather. At the top of the page, [it] is also to make sure that it's provided to the people that need to know. So both the transporter and the owner . . . because the owner may actually have to hold it someplace else if the weather is bad. They have to be able to make that decision.

**SEN. KELLY GEBHARDT** I guess I [have] another little thing on that. When you go to the top of page 6, it says . . . the way I see this is crossing out "including the highway or the rail lines for the immediately preceding 12-hour period." So it would just say, "compile a report on the condition of the travel route, and must obtain a weather report for the areas through which the

material is to be transported if the weather may influence the safety of the transport." Then . . .

**PAT MURDO** You'd still have the 24-hour part in there? So you would leave "for the immediately preceding 24-hour period." So they have a time limit.

**SEN. KELLY GEBHARDT** Well.

**PAT MURDO** You don't want that?

**SEN. KELLY GEBHARDT** I don't know if we need the 24-hour period, even, because they're compiling a report on the condition of the travel route. You want the preceding 24-hours? What are you going to take, the road report then?

**PAT MURDO** The weather.

**SEN. KELLY GEBHARDT** The highway road report.

**JIM GREENE** That would be one of the best sources. The National Weather Service.

**SEN. KELLY GEBHARDT** Yes, which is . . . I didn't think we even probably needed it, but . . .

**REP. SYLVIA BOOKOUT-REINICKE** [But it] doesn't hurt to leave it in.

**SEN. KELLY GEBHARDT** . . . travel route.

**PAT MURDO** As someone just said, it could be forest fires, too, or flooding, or . . .

**REP. SYLVIA BOOKOUT-REINICKE** That's true.

**SEN. KELLY GEBHARDT** I don't know that we even need a time period on there. If they compile a report, that's where they're going to get the information. From the DOT, anyway probably for the weather report.

**SEN. MIKE WHEAT** I can live without the 24-hour time period.

**REP. SYLVIA BOOKOUT-REINICKE** Ok, Ok.

**SEN. KELLY GEBHARDT** Here's the issue that I had: If you go over to the next page, the sentence starts, "If the information gathered under this Section is not otherwise required to be provided to the owner and the transporter of the waste, the inspecting agency shall provide the information . . . ." That's saying that now **JIM GREENE** is going to have to provide . . .

**JIM GREENE JIM GREENE** . . . or the PSC. Right.

**SEN. KELLY GEBHARDT** Somebody is going to have to provide that . . . and they don't . . . let's let that remain the responsibility of the shipper.

**JIM GREENE** It's all part of their safety plan. They have to monitor the road conditions and the weather.

**SEN. KELLY GEBHARDT** Then, they're going to be providing you with the copy of this report. You shouldn't be providing them with the report.

**JIM GREENE** It's a circle.

**SEN. MIKE WHEAT** If you go back to the beginning, the bottom of page 5, Subsection 2, it says "The agency assigned to inspect must file a report . . . ." So, it's the agency's responsibility.

**PAT MURDO** Partly what I do is . . . [if] you have somebody traveling from Alabama here, they may not judge the weather [like] somebody local would. But, I don't care which way you do it.

**SEN. MIKE WHEAT** I think it ought to be part of . . .

**SEN. KELLY GEBHARDT** I see where you're coming from with that, and you're saying that if **JIM GREENE's** going to charge somebody \$2,500 to go through the state, he has some responsibility to make sure there's safety there as well. That might be all right. Now we're back to . . . now we're putting . . .

**JIM GREENE** Well, actually, that's not the PSC because they're the inspection agency.

**PAT MURDO** Or the department of Transportation.

**JIM GREENE** If it's on the highway.

**SEN. KELLY GEBHARDT** How much is that going to cost, in time, to do that?

**JIM GREENE** Well, if you notify them of shipment . . . I mean, then, what you've got to do is monitor it, and then give them the weather forecast and the road report. It makes sense that that's what we're looking at.

**SEN. MIKE WHEAT** I don't think that's unreasonable.

**JIM GREENE** That's pretty easy to do. The weather forecast and the road report.

**SEN. KELLY GEBHARDT** I see then, after reading it a little more carefully that . . .

**REP. SYLVIA BOOKOUT-REINICKE** We probably do need the road . . .

**SEN. KELLY GEBHARDT** We probably do need the 24-hour thing in there that you were talking about.

**PAT MURDO** I think it would keep them from having to . . . much...

**REP. SYLVIA BOOKOUT-REINICKE** . . . so many in, out, up, take it out . . .

**SEN. KELLY GEBHARDT** The reason being it has to have some parameters to it, because otherwise they could say "why didn't you tell us that two weeks ago it rained three inches and the ground might be unstable," [or] whatever the case happens to be.

**PAT MURDO** Ok. Thank you.

**SEN. KELLY GEBHARDT** **PAT [MURDO]**, I'm sorry I've done that to you.

**PAT MURDO** That's all right.

**REP. SYLVIA BOOKOUT-REINICKE** We're barnstorming here, or brainstorming . . .

**PAT MURDO** [Turn to] number four: it just specifies that they submit a bill and it would be paid out of the account.

**SEN. MIKE WHEAT** You're talking about number 4(9)?

**PAT MURDO** . . . and that's to be more specific, but also to reinforce the idea of priorities, that in fact there may . . . that it would incumbent on you to make sure that there is enough money.

**JIM GREENE** [That] we don't spend it on other things until that's taken care of.

**REP. SYLVIA BOOKOUT-REINICKE/SEN. KELLY GEBHARDT/JIM GREENE** Right/right/right.

**PAT MURDO** Well, it depends on your priorities.

**SEN. KELLY GEBHARDT** I've got to go back again to . . . you know we crossed out . . . back there in one of those other Sections, "owner and transporter." We just made the owner responsible.

**SEN. MIKE WHEAT** For the fee.

**SEN. KELLY GEBHARDT** Yes. But now we're saying that the DOT is going to give this report to both the transporter and the owner.

**REP. SYLVIA BOOKOUT-REINICKE** [Concurred]

**SEN. KELLY GEBHARDT** You want to just make it the owner, and make the owner responsible for making sure the transporter has it through the administrative rule process?

**REP. SYLVIA BOOKOUT-REINICKE** No.

**SEN. MIKE WHEAT** I don't think so. I see a problem . . .

[Jumble of talking over, nothing can be clearly understood.]

**REP. SYLVIA BOOKOUT-REINICKE** . . . the poor trucker needs to know . . .

**SEN. MIKE WHEAT** Absolutely.

**SEN. KELLY GEBHARDT** All right; that's fine. I was kind of thinking like **SEN. JOHN COBB** does, that it's not uniform from one Section to another.

**SEN. MIKE WHEAT** Be careful . . .

**PAT MURDO** [Turn to] Number 5, under Section 9.

**JIM GREENE** How does that fit with the federal standards, do you know?

**REP. SYLVIA BOOKOUT-REINICKE** They're only daylight hours.

**PAT MURDO** You can't . . . you can regulate that it can go around . . .

**REP. SYLVIA BOOKOUT-REINICKE** . . . big cities.

**PAT MURDO** . . . big cities. You can have some specific regulations, but you can't have a blanket ban. Since this would be, not a blanket ban, I think that [it] would float.

**JIM GREENE** Let me throw out the question here. Do we mean like, truly, the Interstate system? Like I-15, I-90, [or] I-94? What happens if it's in route, and, say, the Livingston bridge is closed on the Interstate? Are they going to park it there, just leave it there, or can they move it around working with the Sheriff to get it out of there?

**SEN. KELLY GEBHARDT** Federal highway includes . . .

**JIM GREENE** Ok. So it isn't . . . I saw her shaking her head [unknown person]. . . was only I-15.

**PAT MURDO** It's supposed to be the interstate, so . . .

**SEN. KELLY GEBHARDT** It says interstate highway, federal interstate . . .

**SEN. MIKE WHEAT** Let's talk about that for a minute, because that's one of the ideas . . . as I tried to think through this, what are we trying to do? It seemed to me that the interstates are . . . you've got two lanes going each way. So it's easier to move through. If they start getting off on some of these side roads, and run into a real mess . . .

**SEN. KELLY GEBHARDT** Why don't we leave it that way, and add that it will be transported by motor carrier . . . radioactive waste and transuranic waste may only . . . over a federal interstate highway . . .

**JIM GREENE** This is where we need the consistency, because there's a lot of radioactive waste . . . I mean they pick it up at the hospital here, and they're off the interstate. We've got to make sure we have the consistency we're talking about--transuranic waste to high level stuff.

**SEN. KELLY GEBHARDT** How about if we put "interstate transport by motor carrier." That takes the through shipment. That only limits it to through shipments. At the end of that, so it's high level radioactive waste.

**JIM GREENE** Yes. I mean there are 80-some facilities that we know of in the state that have low-level waste.

**SEN. KELLY GEBHARDT** I still think it would be good to put "interstate" there because we could have some high level waste somewhere that we have to use highway 87 to get at the . . . or highway 2 . . . or whatever it is, to get it to an interstate. We need to . . . also at the end of that we should have something that says "other than in the case of an emergency."

**JIM GREENE** Right. In the case of an emergency, then an individual plan will be worked out with local law enforcement.

**SEN. MIKE WHEAT** Ok. I can sort of live with that. But I want these things on the interstate because it's easier to deal with.

**JIM GREENE** Right. That's ...

**SEN. KELLY GEBHARDT** If we put interstate transport.

**SEN. MIKE WHEAT** I think what we need to do is put an exception there: " . . . except in cases of . . ."

**REP. SYLVIA BOOKOUT-REINICKE** . . . situations of an emergency, a local plan will be initiated" or something like that.

**JIM GREENE** Most of even the low-level waste, most of it is still interstate. Like it's being transported to Salt Lake, or it's coming up from Salt Lake to go to the hospital . . . I mean, most of it is interstate, even the low-level. So we need to focus on the high level at the same . . .

**SEN. MIKE WHEAT** Yes, I think we need to put in here "high-level radioactive waste." This bill is here for a reason . . .

**JIM GREENE** Right.

**SEN. MIKE WHEAT** And it's because we're dealing with this high-level radioactive waste, not the stuff they're taking to hospitals . . . that sort of stuff.

**PAT MURDO** How about if . . .

**SEN. KELLY GEBHARDT** Why don't we do both? High-level and the interstate. That still leaves us open to the intra-state thing to go from point A to the interstate.

**SEN. MIKE WHEAT** Right. Well, that's what we're doing. We're just putting in here "high-level radioactive waste." The sentence is going to stay the same. It's just that we're going to add an additional sentence that says "except in situations where the interstate highway is unable to be used, an alternative route will be worked out . . ."

**JIM GREENE** ". . . with local jurisdiction." "Local law enforcement."

**PAT MURDO** It's gone beyond that because I've decided that you should decide when it's an emergency. Somebody has to decide what an emergency is. So, "except in emergencies determined by the Disaster and Emergency Services Division ."

**SEN. MIKE WHEAT** That's perfect.



**REP. SYLVIA BOOKOUT-REINICKE** Yes, because the DOE is going to be telling these people exactly where and how they go.

**JIM GREENE** Right. And on their plans, they've got all their alternate routes . . .

**SEN. MIKE WHEAT** That's good. For example, if it's Livingston, and they can't cross there, then they're either going to . . . they're probably not going to go down to the park; so they're going to have to go north through Martinsdale, and over to Harlowton. I mean you're going to be going through all kinds of small towns. Through **SEN. GEBHARDT'S** town . . . I understand in certain situations they may have to do that, but I'd prefer that they don't unless . . .

**JIM GREENE** Right. I mean the interstate is the place for it.

**PAT MURDO** So, "except in emergencies determined by the Disaster and Emergency Services Division which shall work with local authorities to determine alternate routes."

**REP. SYLVIA BOOKOUT-REINICKE** Yes.

**JIM GREENE** . . . and then it says "high level radioactive waste."

**PAT MURDO** Ok. [Turn to] new Section 10: . . . "plan must include . . . " This is [the] PSC . . . "coordination with the Federal Railroad Administration on track and rolling stock inspections" which I think they do anyway.

**JIM GREENE** [Agreed.]

**PAT MURDO** . . . "inspection," and this is the part I was talking about, "approval by a federally certified inspector at least three weeks prior to shipment." That's . . . again, the timing is up to you guys.

**SEN. MIKE WHEAT** Isn't it what they do in some other states?

**REP. SYLVIA BOOKOUT-REINICKE** Don't you mean no later than three weeks prior to shipment?

**JIM GREENE** At least three weeks prior to shipment.

**REP. SYLVIA BOOKOUT-REINICKE** You don't mean that it has to be three weeks before? It means no later than. Right?

**PAT MURDO** But do you want three weeks, because you don't even get notified until 10 days?

**CONSENSUS** Yes.

**PAT MURDO** Do you want 10 days?

**REP. SYLVIA BOOKOUT-REINICKE** Let's put 10 days. 10 days or two weeks. no later than . . .

**PAT MURDO** Because the rules say, "notification of the governor is." They have to mail it 10 days . . .

**JIM GREENE** They mail it 10 days . . .

**PAT MURDO** "Postmarked at least 7 days before transport."

**JIM GREENE** Yes. The federal government is going to know before we know. So they can still do that inspection before we know. I guess there's a balance between . . . I would say at least a week, and I don't know . . . where did the three weeks come from? Another state?

**PAT MURDO** No. It was . . . I don't know. Pulled out of a hat.

**SEN. KELLY GEBHARDT** So you're going to change three weeks to 10 days?

**PAT MURDO** A week. [That] makes more sense.

**REP. SYLVIA BOOKOUT-REINICKE** " . . . no later than one week."

**JIM GREENE** [Agreed with **REP. SYLVIA BOOKOUT-REINICKE**.]

**REP. SYLVIA BOOKOUT-REINICKE** At least three weeks, I'm going, Wow! They have to wait three weeks before we can . . . Ok, "no later than one week."

**PAT MURDO** The last one was recommended by the guy in the National Railroad Administration. [He] said, you have it traveling no more than 40 miles an hour, it reduces the risk.

**SEN. KELLY GEBHARDT** The railroad would like to ship dedicated trains, but for safety reasons everybody knows then that they recognize the casks and it's a radioactive train, and they don't want that. That's too much of a giveaway. They want to ship a couple cars, or five cars, or whatever on a train . . . however many cars they put on . . . but they want to mix it with . . .

**SEN. MIKE WHEAT** So mixed in with all those boxcars that have tag marks all over them, there's going to be some high level radioactive waste casks. Honestly, I think the 40 miles an hour is . . .

**SEN. KELLY GEBHARDT** I think that's probably all right too. It might be a little slower than they want to do it, but if they're going to haul radioactive waste, they face the music and . . .

**JIM GREENE** The Federal Railway Administration recommended that?

**PAT MURDO** That was the one that . . . well, I haven't talked with his boss yet, but that was the . . .

**JIM GREENE** Well, if they recommended it, that's even better.

**SEN. MIKE WHEAT** We're talking about the health and safety of our citizens in the state if there's an accident. If we can cut down on accidents by reducing the speed of the trains . . .

**REP. SYLVIA BOOKOUT-REINICKE** That's the purpose . . . that's the justification . . .

**JIM GREENE** . . . and the slower it's going the less likely it's going to breach the cask, too.

**PAT MURDO** [Turn to] Page 7.

**SEN. KELLY GEBHARDT** You've got that up a little bit.

**JIM GREENE** What happens to the penalty, the fine? Where do they go?

**REP. SYLVIA BOOKOUT-REINICKE** The New York fund.

**SEN. KELLY GEBHARDT** No they don't. They go into the general fund. By the way the code's set up. You can't make your own . . .

**JIM GREENE** You can't make money by . . .

**REP. SYLVIA BOOKOUT-REINICKE** The EPA funds themselves through fines. Why can't we?

**SEN. KELLY GEBHARDT** So does OSHA (Occupational Safety and Health Administration) but they're set up specifically that way. But that's the same kind of a fund as we've got going here. We're making . . . the fees that we charge are going to pay for administering the process. Because somebody violates the process, you can't get rich on their violations.

**REP. SYLVIA BOOKOUT-REINICKE** Ok.

**PAT MURDO** Then it specifies that it's in addition to . . .

**SEN. KELLY GEBHARDT** It's kind of like the police department with speeding fines. The cop doesn't keep the money from all the fines.

**JIM GREENE (TAPE 2 SIDE A)** . . . the company would be . . . particularly if there were gross negligence, because the government wouldn't back them up either.

**REP. SYLVIA BOOKOUT-REINICKE** What we need is high level there.

**JIM GREENE** Yes.

**PAT MURDO** Thank you.

**REP. SYLVIA BOOKOUT-REINICKE** Wherever it says "waste", we need "high level waste."

**PAT MURDO** Is there anything else on Section 12?

**REP. SYLVIA BOOKOUT-REINICKE** On Section 12, it says the transporter shall be strictly liable for damages.

**JIM GREENE** Right. That's what she was talking about.

**REP. SYLVIA BOOKOUT-REINICKE** We need that to be the owner.

**SEN. MIKE WHEAT** It says "the transportation of high-level radioactive waste and transuranic waste through the state is deemed to be an ultra-hazardous activity" . . .

**PAT MURDO** And then it says "transporter."

**JIM GREENE** But the second half of the sentence says the "transporter."

**REP. SYLVIA BOOKOUT-REINICKE** So we don't want the federal government or a utility company to try to palm that off onto the trucking industry.

**JIM GREENE** The owner.

**SEN. KELLY GEBHARDT** The owner and the transporter, or just the owner?

**REP. SYLVIA BOOKOUT-REINICKE** Just the owner.

**JIM GREENE** I think the owner. If there's . . . if for some reason the trucker gets drunk the night before and all that, that's gone beyond . . .

**SEN. MIKE WHEAT** He'd be liable.

**REP. SYLVIA BOOKOUT-REINICKE** I don't think he'll have the authority to haul this stuff. Well, maybe.

**JIM GREENE** They're really tightening up now, because of September 11, all across the . . .

**REP. SYLVIA BOOKOUT-REINICKE** Well, yes. The guy that came in illegally with a fake passport from Canada, and they caught him in Miles City . . . on his driver's license, he had a commercial, it said he could haul high-level radio active waste. He was licensed for that. Scary.

**PAT MURDO** Severability. That's just in case the federal government finds anything wrong with any of this. And effective date. Immediately.

**REP. SYLVIA BOOKOUT-REINICKE** You have done such a wonderful job. You've made my bill so good. I'm so proud of it now.

**SEN. KELLY GEBHARDT** With those few little changes put in, and we're going to be set up.

**PAT MURDO** You should be. I'll run them by editors, then you'll see.

**JIM GREENE** We've got some pictures here of some of the casks and the different things. [Pictures were passed around.]

**REP. SYLVIA BOOKOUT-REINICKE** Thank you.

**ADJOURNMENT**

Adjournment: 9:35 A.M.

---

SEN. KELLY GEBHARDT, Chairman

---

MONA SPAULDING, Secretary

JC/MS

**EXHIBIT (sts48aad)**